



Toxics Cleanup Program Procedure

Procedure 550A

Resource Contact: Policy and Technical Support Staff

Established: November 15, 1995

References: RCW 70.105D.050
RCW 70.105D.055
WAC 173-340-550
TCP Policy 550A
Ecology Policy 12-01

Revised: January 22, 2009

Procedure 550A: Recovery of Remedial Action Costs incurred by Ecology under an Order or Decree

ORDER & DECREE ROUTING PROCEDURE:

Site Manager (working with an Assistant Attorney General and Unit or Section Supervisor)	<ol style="list-style-type: none">1. Prepares draft consent decree, agreed order, or enforcement order with cost recovery provisions addressing:<ul style="list-style-type: none">• Payment schedule (generally quarterly).• Site name (as listed in facility/site database) and address for billings.• Whether past costs are included or excluded (past costs are generally included). If excluded, state date billing starts.• Level of backup documentation required for invoices, if different from standard billing package (described in Step 11. below).2. If other than the standard billing procedure is specified, submits draft order or decree to the Toxics Cleanup Program (TCP) Cost Recovery Coordinator for review, along with explanation for the change.
TCP Cost Recovery Coordinator	<ol style="list-style-type: none">3. Completes review within five (5) working days or other requested timeframe. Discusses any issues with the Site Manager.4. If issues cannot be resolved, discusses with Site Manager's supervisor and Assistant Attorney General (AAG), as appropriate.

Site Manager	5. Sends one (1) hard copy and one (1) scanned PDF file of the signed and dated order or decree to the Policy and Information Section Secretary. Includes Facility/Site number and Super Index Code (SIC) with document.
TCP Policy and Information Section Secretary	6. Retains a copy of the order or decree. 7. Updates database of orders and decrees. 8. Sends two (2) hard copies of the order or decree to the TCP Cost Recovery Coordinator.
TCP Cost Recovery Coordinator	9. Retains a copy of the order or decree. 10. Transmits a copy of the final decree or order to the Fiscal Cost Recovery Unit with a signed memorandum requesting that cost recovery begin.
BILLING PROCEDURE:	
Fiscal Cost Recovery Unit Fiscal Analyst	11. Each quarter, or as otherwise specified in the applicable order or decree, prepares a draft billing package for each site, which includes: <ul style="list-style-type: none">• A cover memo with signature block for the Site Manager to approve costs or request revisions.• An invoice which includes staff charges, other direct charges, and any interest. Unless otherwise specified by the order or decree, the invoice shall require payment within 30 days, with interest assessed beginning on the 90th day.• Copies of time accounting summary reports for the site for the billing period.• Hourly charge-out rates for employees who direct charge.• Other documentation appropriate for the specific invoice or required by the decree or order. 12. Transmits billing package for each eligible site to the TCP Cost Recovery Coordinator.

Procedure 550A: Cost Recovery at Sites under a MTCA Order or Decree

TCP Cost Recovery Coordinator	13. Transmits billing package to Site Manager. Billing package may be e-mailed or faxed to the regional office for faster turnaround, with original hard copies to follow via campus mail.
Site Manager	14. Reviews billing package for completeness and accuracy of Potentially Liable Party (PLP) information and invoice documentation. If questions about the billing package, contacts TCP Cost Recovery Coordinator. A. If no errors, then signs cover memo and transmits the package to TCP Cost Recovery Coordinator; <u>OR</u> B. If errors, then corrects and either: <ul style="list-style-type: none">• Signs and returns cover memo conditioned upon specified changes being made to billing package; <u>OR</u> <ul style="list-style-type: none">• Returns billing package with a memo explaining the issues.
TCP Cost Recovery Coordinator	15.A. Transmits signed cover memo and billing package to Fiscal Analyst; <u>OR</u> 15.B. Asks the Fiscal Analyst to look into the issues noted and to make any necessary corrections to the billing package. Notifies the Site Manager before sending any documentation to the PLP that is different from what the Site Manager has approved.
Fiscal Cost Recovery Unit Fiscal Analyst	16. Prepares final invoice and sends it to the party(s) identified in the approved billing package.
WHEN INVOICE PAYMENTS ARE DELINQUENT:	
Fiscal Cost Recovery Unit	17. Monthly sends report of delinquent invoices to TCP Cost Recovery Coordinator. An invoice is delinquent if no payment is received by the due date specified on the invoice (generally 90 days for older orders and decrees, and 30 days for orders and decrees issued after January 2009).

TCP Cost Recovery Coordinator	18. Relays delinquency information to the Site Manager and discusses who should call to prompt payment of invoice.
Site Manager or TCP Cost Recovery Coordinator	19. Calls PLP or other responsible person, requesting the invoice be paid, documents the response, and shares this information with each other.
TCP Cost Recovery Coordinator	20. If response indicates invoice is unlikely to be paid, requests approval from Site Manager to send delinquency notice.
Site Manager	21. If Site Manager does not approve sending delinquency notice, contacts Section Manager to discuss why a delinquency notice should not be sent. 22. If confirmed by Section Manager, documents reasoning and asks TCP Cost Recovery Coordinator to exclude PLP from delinquency notice process.
Fiscal Cost Recovery Unit	23.A. If approved, sends up to three monthly delinquency notices via certified mail, return receipt requested, until payment is made or is told by the TCP Cost Recovery Coordinator not to send additional notices. 23.B. If delinquency notice will not be sent, includes PLP in report of delinquencies under step 24 below.
IF THIRD REPEAT DELINQUENCY NOTICE HAS NOT BEEN PAID:	
TCP Cost Recovery Coordinator	24. Reviews delinquency with Site Manager, Section Manager, and Assistant Attorney General, as appropriate and discusses strategy for recovering costs. 25. Makes recommendation to and requests direction from TCP Management Team on strategy for recovering costs.
TCP Management Team	26. Decides appropriate enforcement action considering the following factors: <ul style="list-style-type: none"> • Amount of debt • Age of debt • Ability of PLP to pay • Marketability of property (for liens)

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	<ul style="list-style-type: none">• Legal mechanism under which invoice has been sent• Likely success of specified action• Stage of cleanup
TCP Cost Recovery Coordinator	27. Quarterly, provides cost recovery information to TCP Management Team including: number of invoices sent, dollar amount of payments billed and received, number of delinquency notices sent and amount delinquent.

Note: This procedure is solely to guide Ecology staff, and is not intended to impose any mandatory duties or obligations on Ecology. It does not create rights, substantive, or procedural, enforceable by any party in litigation. Ecology may act at variance with this procedure or change or withdraw this policy at any time.

Approved: _____



James J. Pendowski, Manager
Toxics Cleanup Program

